IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH.

I.T.R. No.596 of 1995
Date of decision: 18.10.2006

The Commissioner of Income Tax (Central), Ludhiana.

---Applicant

Vs.

M/s Munak Oils Ltd., Chandigarh.

-----Respondent

CORAM:- HON'BLE MR JUSTICE ADARSH KUMAR GOEL
HON'BLE MR JUSTICE RAJESH BINDAL

Present: Mr. S.K. Garg Narwana, Advocate
for the revenue.

Mr. Akshay Bhan, Advocate
for the assessee.

ORDER:

Following question of law has been referred for opinion of this Court by the Income Tax Appellate Tribunal, Chandigarh Bench, Chandigarh, arising out of its order dated 18.05.1994 in I.T.A. No.809 and C.O. No.82/Chd/1989 in respect of assessment year 1984-85:-

> "Whether on the facts and in the circumstances of the case, the Income-tax Appellate Tribunal was right in law in building that the first proviso to section 43B inserted by the Finance Act, 1987 w.e.f. 1.4.1988 has retrospective application and that the assessee was entitled to deduction of Rs.1,35,821/-, if paid before due date for filing of return?"

We find that the issue is covered against the revenue and in favour of the assessee by the judgment of Hon'ble Supreme Court in ***Allied Motors (P) Limited v. Commissioner of Income Tax*** 1997 (224) ITR 677.

Following the above judgment of the Hon'ble Supreme Court, we have decided the issue against the revenue and in favour of the assessee vide our order

dated 5.9.2006 in ITR No.94 of 1996, ***The Commissioner of Income tax (C), Ludhiana v. M/s Avery Cycle Inds. Pvt. Limited, Ludhiana.***.

Accordingly, the question is answered against the revenue and in favour of the assessee.

(ADARSH KUMAR GOEL)
JUDGE

October 18, 2006 **(RAJESH BINDAL)**
ashwani **JUDGE**